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| EXAMINER | |
|---|---|
| REIDEL, JESSICA L | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3766 | |

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/820,937 | SHAFER, LISA LYNN | |
| | Examiner | Art Unit | |
| | Jessica L. Reidel | 3766 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *09 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-18,21-33,35,36,43-46,48-53,58,59,61-63 and 68* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18,21-33,35,36,43-46,48-53,58,59,61-63 and 68* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

2. Applicant's submission filed on August 9, 2006 has been entered. Claims 19-20, 34, 37-42, 47, 54-57, 60, 64-67 and 69 have been cancelled. Claims 1-18, 21-33, 35-36, 43-46, 48-53, 58-59, 61-63 and 68 are pending.

### *Specification*

3. The abstract of the disclosure is objected to because it contains phrases such as "is discussed" and "Devices discussed" which can be implied. Correction is required. See MPEP § 608.01(b).

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Objections*

5. Claims 1 and 27 are objected to because of the following informalities: there appears to be inadvertent typographical errors in both claims -- some of the disorders listed have been listed twice. For example, "rheumatoid arthritis" is listed in lines 17 and 21 of Claim 1 and "Type I diabetes" is listed in lines 25 and 26 of Claim 1. The Examiner respectfully requests Applicant's cooperation in reviewing all claims that list multiple disorders in order to ensure that the same disorder is not listed more than once in a single claim. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-13, 21, 23-24, 27-31, 35 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by King (U.S. 6,058,331). As to Claims 1, 21, 27, 35 and 45, King discloses a method comprising stimulating a sympathetic neuron of a mammalian subject in an amount effective to inhibit the release of a proinflammatory mediator/inhibit the inflammatory cytokine cascade. King specifies that the method is used for treating organ ischemia using spinal cord or peripheral nerve electrical stimulation with closed loop feedback control (see King Title and Abstract) comprising the steps of identifying a mammalian subject suffering from organ

ischemia using external sensor 30 or internal sensor 40 (see King column 5, lines 31-67 and column 6, lines 1-54) and stimulating a sympathetic neuron (either in the spinal cord or the peripheral nervous system) of the subject (see King Title, Abstract, Figs. 1-3, columns 1-2, column 3, lines 28-60, column 4, lines 29-67, column 5, lines 1-67, column 7, lines 41-56 and column 10, lines 8-59). It is inherent that organ ischemia is a disease or disorder that is mediated by an inflammatory cytokine cascade and the Examiner makes reference to Applicant's disclosure pages 8-12.

The Examiner takes position that the plurality of electrical pulses delivered by lead 16 of King -- having amplitudes of 0.1 to 20 volts, pulse widths varying from 60 to 1000 microseconds and repetition rates varying from 5 to 185 Hz or more -- is synonymous with an "amount effective to inhibit the release of a proinflammatory mediator" due to Applicant's disclosure pages 17 and 26-28 (see King column 10, lines 8-24). King specifies that the method may be used to inhibit sympathetic activity/outflow (see King column 5, lines 28-31, column 7, lines 42-56 and column 10, lines 8-24). Since it inherent and well known in the art that sympathetic nervous activity is a major controller/contributor to the neurogenic contribution to inflammation in the body, a method that inhibits such sympathetic nervous activity (such as the method of King) inherently inhibits release of a proinflammatory cytokine cascade.

The Examiner also notes that although the method of King is not explicitly disclosed "to inhibit the release of a proinflammatory mediator" or to "inhibit the inflammatory cytokine cascade", the electrical pulses delivered by lead 16 of the King method are capable of inhibiting the release of a proinflammatory mediator /the inflammatory cytokine cascade for the reasons discussed above and "[t]he discovery of a previously unappreciated property of a prior art

composition, or of a scientific explanation for the prior art's functioning, does not render the old composition patentably new to the discoverer." Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999). Thus the claiming of an unknown property, which is inherently present in the prior art, does not necessarily make the claim patentable. In re Best, 562 F.2d 1252, 1254, 195 USPQ430, 433 (CCPA 1977) (MPEP § 2112).

8. As to Claims 2-5 and 28, King discloses that an implanted stimulation electrode delivers a plurality of electrical pulses to a sympathetic neuron via an implantable signal generator 14 (see King Figs. 1-3, column 3, lines 44-48, column 4, lines 29-67, column 5, lines 1-31 and column 10, lines 8-24).

9. As to Claims 6-13, 23-24 and 29-31, in addition to the arguments presented above, King discloses that lead 18 may have stimulation electrodes that may be positioned at spinal vertebral levels T8-L1. It is inherent that the splenic nerve is located at these vertebral levels. It is inherent that postganglionic sympathetic nerve fibers converge, in small nodes of nerve cells, called ganglia and King specifies that the stimulation lead 18 may also be position adjacent to the lumbar sympathetic ganglia (see King column 4, lines 66-67 and column 5, lines 1-31).

10. Claims 1-13, 21-24, 26-31, 33, 35-36, 43-46, 48-53, 58-59, 61-63 and 68 are rejected under 35 U.S.C. 102(e) as being anticipated by Yun et al. (U.S. 2004/0249416) (herein Yun). As to Claims 1, 21-22, 27, 35-36, 43-46, 48-53, 58-59, 61-63 and 68, Yun discloses a method comprising stimulating a sympathetic neuron of a mammalian subject in an amount effective to inhibit the release of a proinflammatory mediator/inhibit the inflammatory cytokine cascade. Yun specifies that the method includes the steps of inhibiting or down-regulating activity in at least a portion of the sympathetic nervous system using electrical stimulation of a sympathetic

neuron (see Yun Title, Abstract, page 6, paragraphs 50-53, page 7, paragraphs 53-59 and page 8, paragraphs 59-60) in order to treat a wide variety of cardiovascular, pulmonary, skin, genitourinary, degenerative, autonomic dysregulation, sudden death, gastrointestinal, neurodegenerative, endocrine, neuroinflammaory, orthopedic, lymphoprolific, autoimmune, inflammatory and infectious diseases/disorders (see Yun page 13, paragraph 111 and pages 14-19) comprising identifying a mammalian subject suffering from any of these wide varieties of diseases/disorders listed using an implanted or external feed-back sensor (see Yun page 8 and page 11, paragraph 93). It is inherent that these diseases or disorders are mediated by an inflammatory cytokine cascade and the Examiner makes reference to Applicant's disclosure pages 8-12.

The Examiner takes position that the plurality of electrical pulses delivered in order to inhibit conduction in a portion of the sympathetic nervous system in the method of Yun -- having amplitudes of 0.1 to 50 volts and frequencies varying from 1 Hz to 2500 Hz -- is synonymous with an "amount effective to inhibit the release of a proinflammatory mediator" due to Applicant's disclosure pages 17 and 26-28 (see Yun page 7, paragraph 59). Since it inherent and well known in the art that sympathetic nervous activity is a major controller/contributor to the neurogenic contribution to inflammation in the body, a method that inhibits such sympathetic nervous activity (such as the method of Yun) inherently inhibits release of a proinflammatory cytokine cascade.

The Examiner also notes that although the method of Yun is not explicitly disclosed "to inhibit the release of a proinflammatory mediator" or to "inhibit the inflammatory cytokine cascade", the electrical pulses delivered are capable of inhibiting the release of a

proinflammatory mediator /the inflammatory cytokine cascade for the reasons discussed above and "[t]he discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art's functioning, does not render the old composition patentably new to the discoverer." Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999). Thus the claiming of an unknown property, which is inherently present in the prior art, does not necessarily make the claim patentable. In re Best, 562 F.2d 1252, 1254, 195 USPQ430, 433 (CCPA 1977) (MPEP § 2112).

11. As to Claims 2-5 and 28, Yun discloses that the method may be carried out by an implanted stimulation electrode which delivers the plurality of electrical pulses to a sympathetic neuron via an implantable signal generator 100 (see Yun page 7, paragraph 54, page 10, paragraphs 80-87, page 11 and page 20)

12. As to Claims 6-13, 23-24 and 29-31, in addition to the arguments presented above, Yun discloses that the sympathetic stimulation of a sympathetic neuron may include pre- and post ganglionic nerve fibers, ganglionic structures, efferent and afferent nerve fibers, etc. Yun goes on to specify that targeted areas of the sympathetic nervous system may include the internal carotid nerve and plexus, middle and superior cervical sympathetic ganglion; vertebral ganglion; cervicothoracic ganglion; sympathetic trunk; cervical cardiac nerves; cardiac plexus; thoracic aortic plexus; celiac ganglion; celiac trunk and plexus; superior mesenteric ganglion; superior mesenteric artery and plexus; intermesenteric plexus; inferior mesenteric ganglion; inferior mesenteric artery and plexus; superior hypogastric plexus; hypogastric nerves; vesical plexus; thoracic cardiac nerves; sympathetic trunk; 6th thoracic sympathetic ganglion; gray and white rami communicantes; greater, lesser and least splanchnic nerves; aorticorenal ganglion; lumbar

splanchnic nerves; gray rami communicantes and sacral splanchnic nerves; or a combination of two or more of the above (see Yun page 7, paragraph 54).

13. As to Claims 26 and 35, Yun discloses that the method may further include stimulating the patient's vagus nerve (see Yun page 4, paragraphs 37-41).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15. Claims 14-18, 26 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over King in view of Tracey (U.S. 6,610,713). As to Claims 14-17, King discloses the claimed invention as discussed above except that the inhibition of a proinflammatory mediator is not specified to be inhibition of an inflammatory cytokine called TNF-α. Tracey, however, teaches that inflammation and other deleterious conditions (such as organ ischemia) are often induced by proinflammatory cytokines such as tumer necrosis factor (TNF-α) (see Tracey columns 1-2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of King in view of Tracey to comprise inhibition of the inflammatory cytokine TNF-α in order to treat organ ischemia.

16. As to Claim 18, King discloses the claimed invention as discussed above except that the proinflammatory mediator is not specified to be a chemokine. Tracey, however, teaches a method of stimulating a nerve to inhibit the release of a pro-inflammatory cytokine such as IL-8.

IL-8 is produced in acute and chronic inflammation to mobilize and activate white blood cells so it is inherent that inhibition of IL-8 inhibits the mobilization and activation of white blood cells during acute and chronic inflammation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of King in view of Tracey to comprise inhibition of the inflammatory chemokine such as IL-8 in order to stop the mobilization and/or activation of white blood cells during acute and chronic inflammatory responses (such as organ ischemia) in a patient.

17. As to Claims 26 and 33, King discloses the claimed invention as discussed above except that the method does not further comprise stimulating a vagus nerve. Tracey, however, discloses a method for inhibiting the release of a pro-inflammatory cytokine from a mammalian cell comprising stimulating a neuron (i.e. the vagus nerve) of a mammalian subject in an amount effective to inhibit the release of the pro-inflammatory cytokine (see Tracey column 10, lines 17-56) to treat a wide variety of diseases or disorders that are mediated by an inflammatory cytokine cascade such as organ ischemia. Tracey teaches that stimulation of the parasympathetic nervous system promotes release of acetylcholine, which inhibits release of a proinflammatory mediaor (see Tracey columns 1-2, column 3, lines 7-67, column 4, lines 1-67, column 5, lines 1-16, column 10, lines 17-67 and column 11, lines 1-30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of King in view of Tracey to not only use electrical stimulation to inhibit sympathetic activity/outflow but to also include stimulating the vagus nerve inhibit an inflammatory cytokine cascade to better the invention.

18. Claims 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over King. King discloses the claimed invention as discussed above except that the method does not further comprise direct stimulation of a peripheral tissue or organ served by the splenic nerve. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by King with direct stimulation of a peripheral tissue or organ served by the splenic nerve, because Applicant has not disclosed that such stimulation provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with the sympathetic nerve stimulation as taught by King, because the stimulation is in an amount effective to inhibit the release of a proinflammatory mediator and since it appears to be an arbitrary design consideration which fails to patentably distinguish over King.

Therefore, it would have been an obvious matter of design choice to modify King to obtain the invention as specified in the claim(s).

19. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over King in view of Tracey (U.S. 6,610,713). As to Claims 14-17, Yun discloses the claimed invention as discussed above except that the inhibition of a proinflammatory mediator is not specified to be inhibition of an inflammatory cytokine called TNF-α. Tracey, however, teaches that inflammation and other deleterious conditions are often induced by proinflammatory cytokines such as tumer necrosis factor (TNF-α) (see Tracey columns 1-2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Yun in view of Tracey to comprise inhibition of the inflammatory cytokine TNF-α in order to treat a wide variety of inflammatory and infectious diseases/disorders.

20. As to Claim 18, Yun discloses the claimed invention as discussed above except that the proinflammatory mediator is not specified to be a chemokine. Tracey, however, teaches a method of stimulating a nerve to inhibit the release of a pro-inflammatory cytokine such as IL-8. IL-8 is produced in acute and chronic inflammation to mobilize and activate white blood cells so it is inherent that inhibition of IL-8 inhibits the mobilization and activation of white blood cells during acute and chronic inflammation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Yun in view of Tracey to comprise inhibition of the inflammatory chemokine such as IL-8 in order to stop the mobilization and/or activation of white blood cells during acute and chronic inflammatory responses in a patient.

21. Claims 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yun. Yundiscloses the claimed invention as discussed above except that the method does not further comprise direct stimulation of a peripheral tissue or organ served by the splenic nerve. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Yun with direct stimulation of a peripheral tissue or organ served by the splenic nerve, because Applicant has not disclosed that such stimulation provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with the sympathetic nerve stimulation as taught by Yun, because the stimulation is in an amount effective to inhibit the release of a proinflammatory mediator and since it appears to be an arbitrary design consideration which fails to patentably distinguish over Yun.

Therefore, it would have been an obvious matter of design choice to modify Yun to obtain the invention as specified in the claim(s).

***Double Patenting***

22. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

23. Claims 1-18, 21-33, 35-36, 43-46, 48-53, 58-59, 61-63 and 68 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-129 of copending Application No. 10/820,677. Although the conflicting claims are not identical, they are not patentably distinct from each other because the current claims are a broadening of the scope of the claims presented in Application No. 10/820,677 or an obvious variant thereof.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Response to Arguments***

24. Applicant's arguments with respect to Claims 1 and 27 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

25. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Safieh-Garaedian et al. *"The role of the sympathetic efferents in endotoxin-induced localized inflammatory hyperalgesia and cytokine upregulation"* teaches that the sympathetic nervous system is considered to be a major component of the neurogenic contribution to inflammation.

Hallegua et al. *"Cytokines play an aetiopathogenetic role in fibromyalgia: a hypothesis and pilot study"* teaches that catecholamines promote the release of proinflammatory mediators.

Whitehurst et al. (U.S. 6,832,114) (herein Whitehurst '114) discloses systems and methods for modulating pancreatic endocrine secretion in order to treat diabetes. Whitehurst '114 teaches that stimulation to decrease excitement of sympathetic input to the pancreatic beta cells will increase insulin production.

Whitehurst et al. (U.S. 6,735,475) (herein Whitehurst '475) discloses a fully implantable miniature neurostimulator for stimulation as a treatment for headache and/or facial pain that uses high frequency sympathetic stimulation to inhibit the inflammatory cytokine cascade.

Zhou et al. (U.S. 2004/0220621) discloses a method and apparatus for delivering corrective therapy through hormone regulation where inhibition of sympathetic nervous system activity is used to regulate hormones such as catecholamines (which is a hormone that promotes an inflammatory cytokine cascade).

26. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jessica L. Reidel whose telephone number is (571) 272-2129. The Examiner can normally be reached on Mon-Thurs 8:00-5:30, every other Fri 8:00-4:30.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jessica L. Reidel 08-16-06
Examiner
Art Unit 3766

Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3766